

REMARKS/ARGUMENTS

Upon entry of the instant amendment, claims 12, 15 and 18-22 are under consideration in the instant application.

New claims 19-22 have been added. Support may be found in paragraph 12 of the application as published for new claims 19 and 20. New claim 21 has support in paragraph 15 of the application as published. New claim 22 has support in paragraph 18 of the application as published. No new matter has been added.

Rejections Under 35 U.S.C. §102

The Examiner has rejected claims 12, 15 and 18 under 35 U.S.C. 102(b), as being anticipated by Pirak (US 5400771). The rejections of the Examiner are respectfully traversed.

The Examiner states that Pirak discloses a method of continuously monitoring changes in indications of vital functions of a patient, employing an endotracheal tube with an imaging sensor. Furthermore, the Examiner states that the taught device is used for a prolonged period of time.

However, Pirak teaches performs the monitoring only to determine the position of the endotracheal tube within the patient, and not to determine changes in indications of vital functions of the patient. The comparator, referred in col 6, lines 42 and following, is used to compare images of the endotracheal tube within the patient, to see whether the tube has moved within the patient. It does not check any aspect of the patient's functioning. Any alerts generated only relate to the position of the tube itself and not to any of the patient's vital functions. Furthermore, the ultrasonic transducer is only used to generate the above images that are checked by the comparator; it also does not relay any information regarding the vital functions of the patient.

Thus, previously presented claim 12 is already novel and non-obvious over Pirak, as claim 12 recites that the "said method comprises collecting said signals transmitted via said conduit and interpreting said signals and/or displaying said signals; thereby

performing said continuous monitoring of changes in indications of vital functions of said patient" which differentiates this claim from Pirak.

New claims 19 and 20 further differentiate over Pirak, as they recite a CCD or CMOS chip, or a camera, neither of which is taught by Pirak as the sensor. New claim 21 also further differentiates over Pirak, as it recites that the sensor is selected from the group consisting of "microphones, thermal sensors and gas sensors", which Pirak also does not teach or suggest.

The presently claimed invention supports many other uses and applications which Pirak cannot provide, as Pirak does not teach or suggest monitoring of the patient's functions. Without wishing to be limited by a closed list, some non-limiting examples of these uses and applications include identifying secretions accumulating below the sensor and/or detecting any changes/abnormalities in lung noises, as recited in new claim 22; continuous monitoring of the guided suctioning procedure in suctioning secretions and/or fluids from the lungs; and continuous monitoring of a tracheotomy performed under visualization. These procedures are performed in a setting of ongoing clinical care, while Pirak's device is only taught as being suitable for acute, short term procedures. Pirak's teachings relate to intubation done in the context of the operation room by an anesthesiologist for the monitoring of tube placement during the operation. Furthermore, Pirak emphasizes the need to quickly remove the tube, by describing the end of the procedure by extubation. Pirak does not teach or suggest leaving the tube in and performing the continuous monitoring for days in the context of ICU. Only the method as presently claimed can in fact support such continuous monitoring.

The present response is intended to be fully responsive to all points of objection raised by the Examiner and is believed to place claims 12, 15 and 18-22 in condition for allowance. Favorable reconsideration and allowance of the Application is respectfully requested.

CONCLUSION

Applicant believes that the claims are in condition for allowance. If the Examiner believes that a telephonic interview with the undersigned would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned at (301) 952-1011. Please charge any fees associated with this paper to deposit account No. 50-4801.

Respectfully submitted,

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